LIMITATIONS OF ACTIONS—PRIVATE NUISANCE—SOUTHERN RY. CO. v. MCMENAMIN, 73 S. E., 980 (VA.).—*Held,* that a railroad is a permanent structure, and, where it is a nuisance, there is only one right of action therefor, which will be barred within the statutory period, and the entire damage suffered both past and future must be recovered in one action.

Where a railroad is constructed by lawful authority and is not operated in a negligent or unlawful manner, it is not a nuisance to an adjoining landowner. *Grand Rapids, etc., R. Co. v. Heisel,* 38 Mich., 62; *Beseman v. Pennsylvania R. Co.,* 50 N. J. Law, 235. But the company cannot escape from liability for damage caused by the improper location and maintenance of structures which are incidental to the ordinary operation of the road. *Baltimore, etc., R. Co. v. Fifth Baptist Church,* 108 U. S., 317; *Garvey v. Long Island R. Co.,* 159 N. Y., 323. And where a structure of this nature is permanent but shelters a nuisance which is transient and recurrent, successive actions may be brought for each recurrence of the consequent injury and the Statute of Limitations will run only from the time of the respective recurrences. *City Council of Augusta v. Lombard,* 101 Ga., 724; *Sterrett v. Northport, etc., Co.,* 30 Wash., 164. There is considerable authority in support of the doctrine of the principal case that where the original nuisance is of a permanent character, so that the damage inflicted thereby will be permanent in all probability, recovery for damages past and future must be had in a single action, which is deemed to have accrued when the nuisance was created. *Powers v. Council Bluffs,* 45 Iowa, 652; *Chicago, etc., R. Co. v. McAuley,* 121 Ill., 160; *St. Louis, etc., R. Co. v. Anderson,* 62 Ark., 360. But even where this doctrine has been recognized, there has been a strong tendency to restrict its application by narrowing the definition of permanent nuisances. *Petit v. Green County Grand Junction,* 119 Iowa, 352; *Baker v. Leka,* 48 Ill. App., 353. In most jurisdictions, however, this rule requiring all damages to be recovered in a single action, has not been accepted. *Aldworth v. Lynn,* 153 Mass., 53; *Doran v. Seattle,* 24 Wash., 182. It would seem, nevertheless, that the doctrine of the principal case, though supported by a minority of authority, is preferable, in that in such cases where the nuisance is reasonably sure to prove recurrent, litigation is restricted to a single action instead of being extended indefinitely to a series of suits of a similar character.

RELEASE—JOINT TORT-FEASORS.—FLYNN v. MANSON, 126 PAC., 181 (CAL.).—*Held,* a release of one of several wrongdoers from liability releases his co-defendants, though the release recites that it is not claimant's intention that it so operate.

It is a generally recognized rule of law that a technical release under seal to one of the wrongdoers will bar recovery against the other, *Rogers v. Cox,* 66 N. J. L., 432, and this is so even though the release expressly stipulated that it was to apply to no one except the one to whom it was given. *Gunther v. Lee,* 45 Md., 60. An unconditional written release not